

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**RICHARD CHAPMAN**

**PETITIONER**

**V.**

**CAUSE NO. 3:15-CV-503-CWR-FKB**

**STATE OF MISSISSIPPI *et al.***

**RESPONDENTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on Petitioner's Objection to the Report and Recommendation of United States Magistrate Judge F. Keith Ball entered on May 25, 2016. Docket No. 18. The Magistrate Judge's Report and Recommendation recommends dismissing the petition because Chapman failed to exhaust state administrative remedies. Having considered said Report and Recommendation, the petitioner's objections, defendants' response, applicable statutory and case law, and being otherwise fully advised, the Court concludes that petitioner's objection is without merit and hereby adopts, as its own opinion, the Report and Recommendation of the Magistrate Judge.

Petitioner was convicted of rape in Hinds County in January 1982 and pled guilty to robbery later that same year. He has been in the custody of the Mississippi Department of Corrections since then. Petitioner did not file timely post-conviction relief to his robbery charge. Further, he has sought federal habeas relief on two prior occasions, in 1994 and 1996. *See Chapman v. State of Mississippi*, Case No. 3:96cv412-HTW-JCS and *Chapman v. State of Mississippi*, Case No. 3:94cv468-WHB-AGN. In the 1994 case, the Court concluded that it lacked jurisdiction to review the claims and the Court found the 1996 case to be a successive petition. Chapman has also continued to pursue relief in state court related to both the robbery and rape convictions. He has filed for post-conviction relief from the Circuit Court of Hinds

County as well as the Mississippi Supreme Court. Most recently in July 2015, the Supreme Court reversed and remanded his claims regarding his rape conviction back to the Circuit Court for further proceedings. That case is still pending and therefore petitioner has not exhausted his state remedies.

In the instant case, the petitioner argues that his claims pertain only to the robbery charge which is wholly separate from his rape conviction; however, in his petition he alleges facts related to both his robbery and rape convictions. *See* Docket No. 1. The Court agrees that as a pro se petitioner his pleadings are liberally construed. Further, if in fact the current petition is only regarding his robbery conviction, petitioner would have to overcome the argument that this most recent petition is successive to his previous complaints.

Based on the foregoing, it is ordered that the Report and Recommendation of the Magistrate Judge is adopted as the finding of this Court.

This matter shall be dismissed without prejudice and a Final Judgment will be entered on this day in accordance with this Order.

**SO ORDERED**, this the 22nd day of July, 2016.

s/ Carlton W. Reeves  
UNITED STATES DISTRICT JUDGE